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EMISSIVE ENERGY CORPORATION

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST, Plaintiff, v. EMISSIVE ENERGY CORPORATION, a Delaware Corporation; and DOES 1-100, Defendants.	CASE NO. CV 08-0234 BTM (CAB) **ANSWER OF EMISSIVE ENERGY CORPORATION TO COMPLAINT FOR PATENT INFRINGEMENT** Date: April 14, 2008 Courtroom: 15, Fifth Floor Judge: Hon. Barry T. Moskowitz **DEMAND FOR JURY TRIAL**

Defendant EMISSIVE ENERGY CORPORATION ("EMISSIVE"), hereby answers the Complaint for Patent Infringement filed by plaintiff JENS E. SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST ("SORENSEN" and/or "plaintiff") as follows:

THE PARTIES

1. EMISSIVE admits only that Exhibit A attached to the Complaint for Patent Infringement purports to be a copy of United States Patent No. 4,935,184 (the "'184 patent"). EMISSIVE lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 and, therefore, denies the same.

2. Admitted.

3. EMISSIVE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 and, therefore, denies the same.

4. EMISSIVE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and, therefore, denies the same.

JURISDICTION AND VENUE

5. EMISSIVE admits only that this action arises under the patent laws of the United States, but otherwise denies the remaining allegations of paragraph 5.

6. Denied.

7. Denied.

CLAIM FOR RELIEF

(Patent Infringement)

8. EMISSIVE incorporates by reference its responses to paragraphs 1 through 7 as if fully stated herein.

9. Admitted.

10. Denied.

11. EMISSIVE admits that it has not obtained a license or any other valid authorization for import, sale, or offer for sale in the United States of products manufactured through use of the '184 patented process, denies that any such license and/or authorization is necessary and otherwise denies the remaining allegations of paragraph 11.

12. Paragraph 12 states legal conclusions to which no response is required. To the extent a response is required, EMISSIVE denies the allegations of paragraph 12.

13. EMISSIVE admits only that it received a letter dated December 5, 2005 purporting to notify it of the '184 patent. Except as specifically admitted, EMISSIVE denies the allegations of paragraph 13.

14. EMISSIVE admits that it designs, imports, sells and offers for sale in the United States products with external plastic shells, but otherwise denies the remaining allegations of paragraph 14.

15. Denied.

16. EMISSIVE admits that it has not obtained a license or any other valid authorization for import, sale, or offer for sale in the United States of products manufactured through use of the '184 patented process, denies that any such license and/or authorization is necessary and otherwise denies the remaining allegations of paragraph 16.

17. Plaintiff's December 5, 2005 letter speaks for itself. To the extent the allegations contained in Paragraph 17 differ from the letter dated December 5, 2005, they are denied.

18. Plaintiff's December 5, 2005 letter speaks for itself. To the extent the allegations contained in Paragraph 18 differ from the letter dated December 5, 2005, they are denied.

19. Plaintiff's December 5, 2005 letter speaks for itself. To the extent the allegations contained in Paragraph 19 differ from the letter dated December 5, 2005, they are denied.

20. Paragraph 20 states legal conclusions to which no response is required. To the extent a response is required, EMISSIVE denies the allegations of paragraph 20.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

PRAYER FOR RELIEF

EMISSIVE denies that SORENSEN is entitled to any relief requested in the Wherefore clause that follows paragraph 27 of the Complaint.

AFFIRMATIVE AND OTHER DEFENSES

EMISSIVE, without waiver, limitation or prejudice, hereby asserts the follow Affirmative and Other Defenses:

FIRST DEFENSE

(Failure to State a Claim)

The Complaint and each and every one of its allegations fail to state a claim upon which relief may be granted.

SECOND DEFENSE

(Invalidity)

Upon information and belief, one or more claims of the '184 patent that EMISSIVE allegedly is infringing are invalid, void, and/or unenforceable for failure to comply with one or more of the requirements for patentability under the Patent Laws of the United States, 35 U.S.C. §§ 100, et seq., including, without limitation, 35 U.S.C. §§ 102, 103, 112, 116 and/or 132.

THIRD DEFENSE

(Noninfringement)

EMISSIVE does not infringe and has not infringed any valid claim of the '184 patent literally, directly, contributorily, by way of inducement and/or under the doctrine of equivalents.

FOURTH DEFENSE

(Prosecution History Estoppel)

SORENSEN is estopped and otherwise precluded from claiming that the accused products and methods, either literally or under the doctrine of equivalents, are within the scope of the claims of the '184 patent because the claims of the '184 patent are and were limited by amendment, prior art and/or statements made during its prosecution before the United States Patent and Trademark Office.

FIFTH DEFENSE

(Equitable Estoppel and Laches)

SORENSEN's claims are barred by equitable estoppel and/or laches.

SIXTH DEFENSE

(Limitation of Damages)

Upon information and belief, any damages for patent infringement are limited and/or barred by 35 U.S.C. § 286.

EMISSIVE'S PRAYER FOR RELIEF

EMISSIVE prays for judgment against plaintiff as follows:

(a) That judgment be entered in EMISSIVE's favor;

(b) That the court find this to be an exceptional case under 15 U.S.C. §285 and award reasonable attorney fees to Emissive.

DEMAND FOR JURY

Defendant demands a jury trial of all issues triable by jury.

DATED: April 14, 2008

GREENBERG TRAURIG, LLP

By: /s/Kamran Salour
Jeff E. Scott
Valerie W. Ho
Kamran Salour
Attorneys for Defendant
Emissive Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2008, I cause to be filed electronically the **ANSWER OF EMISSIVE ENERGY CORPORATION TO COMPLAINT FOR PATENT INFRINGEMENT** with the Clerk of the Court using CM/ECF system which will send notification of such filing to the e-mail addresses denoted below:

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